

MINUTES
Texas Board of Health Meeting
September 19, 2003

The September 19, 2003, meeting of the Texas Board of Health (Board) was called to order at 9:07 a.m., at the Texas Department of Health (department), 1100 West 49th Street, Room M-739, Austin, Texas. Mr. George H. McCleskey, Chair, presided. A quorum was present with members, Raymond Hannigan, Margo Scholin, B.S.N., M.S., J.D and Mary E. Ceverha., in attendance.

Registered Guests

Jana Huband
Regina Martin, Legislative Budget Board

Mr. McCleskey welcomed guests. Also in attendance at the meeting were Eduardo J. Sanchez, M.D., M.P.H., Commissioner of Health, and other key staff members of the department.

The Texas Board of Health entered into Executive Session at 9:10 a.m. concerning the following litigation: Lee Dexter d/b/a White Egret Farm v. Texas Department of Health, et. al., In the United States District Court for the Western District of Texas, Austin Division; Elizabeth Herrera, et. al., v. Texas Department of Health, In the 125th District Court for Harris County, Texas; and Planned Parenthood of Central Texas, et. al. v. Eduardo J. Sanchez, Texas Commissioner of Health, In the United States District Court for the Western District of Texas, Austin Division with the General Counsel. The Executive Session concluded at 9:34 a.m. No action was taken.

Mr. McCleskey reconvened the meeting at 9:36 a.m., on Friday, September 19, 2003. Other Board members in attendance were Mr. Raymond Hannigan, Ms. Margo Scholin, and Ms. Mary E. Ceverha.

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. SCHOLIN,
THE MINUTES OF THE AUGUST 7, 2003 TEXAS BOARD OF HEALTH MEETING WERE
APPROVED.

Dr. Sanchez spoke regarding recent activities of the Commissioner and presented the Commissioner's Report. Discussion followed after a video presentation of the Health and Human Services Commission consolidation process regarding the transition required by HB 2292.
(Attachment I)

Ms. Machel Pharr, Chief Financial Officer, requested approval of the Operating Budget and Operating Budget Policy for 2004. (*Attachment II*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED THE OPERATING BUDGET POLICY AND THE OPERATING BUDGET, THAT INCLUDES THE PROPOSED ADDITIONAL CAPITAL OF \$8,568,505, WITH THE UNDERSTANDING THAT THE DEPARTMENT WILL MEET THE REQUEST TO COME UP WITH ADDITIONAL SAVINGS.

Ms. Machel Pharr, Chief Financial Officer, requested approval to submit a request to the Governor and Legislative Budget Board for the capital budget authority detailed in Attachment A. (*Attachment III*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED THE ADDITIONAL CAPITAL REQUEST AS STATED IN AGENDA ITEM THREE, THAT INCLUDES THE PROPOSED ADDITIONAL CAPITAL OF \$8, 568,505, WITH THE UNDERSTANDING THAT THE DEPARTMENT WILL MEET THE REQUEST TO COME UP WITH ADDITIONAL SAVINGS.

Ms. Machel Pharr, Chief Financial Officer, requested approval of transfers detailed in Attachment B that relate to the recent opportunity retirees took to take advantage of the retirement incentive. This request will cover the costs of lump-sum payments for annual leave for retirees. (*Attachment IV*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED THE TRANSFER OF FUNDS AS OUTLINED IN ATTACHMENT B.

Mr. Mark Scott, Director, Internal Audit, requested approval of the Internal Audit Plan for Fiscal Year 2004. (*Attachment V*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED THE INTERNAL AUDIT PLAN FOR FISCAL YEAR 2004.

Mr. Ben Delgado, Chief Operating Officer, presented an update on business improvement activities that show the total percentage of partially and totally implemented items to be at eighty-nine percent. Mr. Delgado stated the department has made tremendous progress with only four items left that are in the delayed category. Ms. Elaine Powell will present a more detailed update at the next Board meeting. (*Attachment VI*)

Mr. Dan Smith, Continuing Education Administrator, Office of Public Health Practice, stated that the department's four continuing education programs have been combined in the Office of Public Health Practice. He requested approval of the revised mission statement that includes all of the required standards for the accreditation bodies for each discipline. (*Attachment VII*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED THE REVISED CONTINUING EDUCATION MISSION STATEMENT.

Ms. Julie W. Loera, Chief, Training and Evaluation Branch, Manufactured Foods Division, Bureau of Food and Drug Safety, requested approval of proposed rules concerning juice Hazard Analysis Critical Control Point (HACCP) systems to benefit Texas consumers by ensuring that all Texas juice meets the same level of safety as juice in interstate commerce. (*Attachment VIII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED PROPOSED RULES CONCERNING THE JUICE HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) SYSTEMS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Julie W. Loera, Chief, Training and Evaluation Branch, Manufactured Foods Division, Bureau of Food and Drug Safety, requested approval of a proposed amendment to a rule concerning the production, processing, and distribution of bottled and vended drinking water to generate funding to operate the program. (*Attachment IX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED A PROPOSED RULE CONCERNING THE PRODUCTION, PROCESSING, AND DISTRIBUTION OF BOTTLED AND VENDED DRINKING WATER FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Jan Melton-Kissel, Chief, Bureau of Children's Health, requested approval of a proposed rule concerning the payment or denial of claims in the Children with Special Health Care Needs Services (CSHCN) Program. Amendments to this rule will make them more consistent with current practice and recent Medicaid program changes. (*Attachment X*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED A PROPOSED RULE CONCERNING THE CHILDREN WITH SPECIAL HEALTH CARE NEEDS SERVICES PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. Sam Cooper, Director, Children with Special Health Care Needs Division, requested approval of proposed rules concerning the Children's Outreach Heart Program that provides prediagnostic screening services and follow-up services. (*Attachment XI*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED PROPOSED RULES CONCERNING THE CHILDREN'S OUTREACH HEART PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Linda S. Moore, Acting Chief, Bureau of HIV and STD Prevention, requested approval of proposed rules concerning human immunodeficiency virus (HIV) and sexually transmitted disease (STD) Prevention. A review has determined that reasons for adopting the various sections of Subchapters A, B, and D no longer exist. The repeal of these Subchapters will not interrupt services. (*Attachment XII*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED PROPOSED RULES CONCERNING THE HIV AND STD PREVENTION FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Susan C. Penfield, M.D., Chief, Bureau of Communicable Disease Control, requested approval of proposed rules concerning tuberculosis screening for jails and other correctional facilities that clarify and update language. (*Attachment XIII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED PROPOSED RULES CONCERNING TUBERCULOSIS SCREENING FOR JAILS AND OTHER CORRECTIONAL FACILITIES FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Jerry W. Felkner, D.D.S, M.P.H., State Dental Director, Division of Oral Health, requested approval of final rules concerning the Texas Health Steps (THSteps) Oral Health Program that amend existing sections, add new rule language and delete sections that the department no longer has the authority to enforce. (*Attachment XIV*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING THE TEXAS HEALTH STEPS (THSTEPS) PROGRAM TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Margaret Mendez, Chief, Bureau of Women's Health, requested approval of final rules concerning the Maternal and Infant Health Improvement Program, the State Maternal and Infant Health Care Program Advisory Committee, and the Maternal and Child Health Advisory Committee. The department has reviewed these sections and has determined that reasons for their adoption no longer continue to exist since they are no longer operational. (*Attachment XV*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING THE REPEAL OF RULES CONCERNING THE MATERNAL AND INFANT HEALTH IMPROVEMENT PROGRAM, THE STATE MATERNAL AND INFANT HEALTH CARE PROGRAM ADVISORY COMMITTEE AND THE MATERNAL AND CHILD HEALTH ADVISORY COMMITTEE TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of a final rule concerning the Promotor(a) or Community Health Worker Training and Certification Advisory Committee. The committee has been reviewed and evaluated and it was determined that the committee should continue in existence until November 1, 2007. (*Attachment XVI*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING THE PROMOTOR(A) OR COMMUNITY HEALTH WORKER TRAINING AND CERTIFICATION ADVISORY COMMITTEE TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of a final rule concerning the Opticians' Registry and the Opticians' Registry Advisory Committee. The committee has been reviewed and it is recommended that the committee be abolished. *(Attachment XVII)*

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING THE OPTICIANS' REGISTRY TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of a final rule concerning the Medical Radiologic Technologist Advisory Committee. The committee has been reviewed and evaluated and it was determined that the committee should continue in existence until November 1, 2007. *(Attachment XVIII)*

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING THE MEDICAL RADIOLOGIC TECHNOLOGIST ADVISORY COMMITTEE TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of a final rule concerning the Respiratory Care Practitioners Advisory Committee. The committee has been reviewed and evaluated and it was determined that the committee should continue in existence until November 1, 2007. *(Attachment XIX)*

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING THE RESPIRATORY CARE PRACTITIONERS ADVISORY COMMITTEE TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

There were no public comments.

Mr. McCleskey announced the next meeting of the Texas Board of Health will be held on Thursday, October 30, 2003, Austin, at 1:30 p.m.

The meeting was adjourned on Friday, September 19, 2003, at 11:10 a.m.

APPROVED: October 30, 2003

George H. McCleskey, Chair
Texas Board of Health

Date